THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

DATED: 19-09-2005

WRIT PETITION No.19412 OF 2005

Between:

K.Anil Kumar . . .Petitioner

And

The APCPDCL, Hyderabad and others . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19412 OF 2005

O R D E R:

The petitioner was engaged as a Contract Labourer by the respondents during 1996 to 2001. The predecessor of the respondents, A.P. State Electricity Board, issued B.P.Ms.No.36, dated 18-05-1997 providing for regularization of the contract labour subject to certain terms. The petitioner was entitled to be regularized in the post of Sub-Engineer in terms of the said B.P.Ms.No.36. He was interviewed on
12-05-2001 for this very purpose. However, when his case was not processed further, he approached this Court by filing WP.No.23204 of 2004. It was disposed of with certain directions. The third respondent addressed a letter dated 12-08-2005 informing the petitioner that he was not selected on account of the fact that the 50% vacancies of Sub-Engineers, earmarked for this purpose, were filled by the candidates, who have more number of man days to their credit, than him. The petitioner challenges the said letter in this writ petition.

Sri S.Ravindranath, the learned counsel appearing for the petitioner, submits that the respondents have chosen 18-05-1997 as the cut off date for the purpose of calculating man-days to determine the *inter se* seniority of various contract labourers, without any basis. He further contends that though there were as many as 13 vacancies, the respondents filled only 7 vacancies and deliberately, kept the remaining posts unfilled.

Sri Samineni Kishore, learned Standing Counsel appearing for the respondents, on the other hand, submits that 18-05-1997, being the date on which, B.P.Ms.No.36 was issued, was treated as the basis for reckoning the seniority of the contract labourers and that no exception can be taken to it. He further contends that all the available vacancies earmarked for this purpose have been filled.

The first submission made on behalf of the petitioner is about the relevance of 18-05-1997. It is not in dispute that B.P.Ms.No.36 was issued on that date. There is a specific clause in it, for reckoning the seniority among the

contract labourers. The posts, which are earmarked for this purpose, are limited in number. Therefore, a semblance of selection needs to be undertaken, strictly in terms of seniority. For that purpose, the service rendered by the contract labourers, subsequent to B.PMs.No.36, hardly constitutes any basis. Therefore, no exception can be taken for the action of the respondents, in treating 18-05-1997 as the relevant date, for reckoning the number of man-days available to the credit of the contract labourers, in the context of regularization.

As regards the number of vacancies, the respondents have stated in the counter affidavit that all the available vacancies, earmarked for this purpose have been filled. This is purely a question of fact and this Court cannot record any definite finding on this. However, the interests of the petitioner can be protected by directing that in case, the respondents fill any posts of Sub-Engineers through any contract labourer, the case of the petitioner shall also be considered and the selection shall be strictly on the basis of the number of man-days to the credit of the contract labourer concerned. Similarly, if any of the selected candidates in the recent past have not joined, the same procedure shall be followed to fill the resultant vacancy also.

With the above observations, the writ petition is disposed of.

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(L.NARASIMHA REDDY, J)

19th SEPTEMBER, 2005.

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